IFW
1652

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Livshits et al.



Serial No. **09/927,395**

Filed: August 13, 2001

Art Unit: 1652

Examiner: Rao

Atty. Docket: US-125OD2

For: DNA CODING FOR PROTEIN WHICH CONFERS ON BACTERIUM ESCHERICHIA COLI RESISTANCE TO L-HOMOSERINE, AND METHOD FOR PRODUCING L-AMINO ACID

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

Mail Stop PETITIONS
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions the United States Patent & Trademark Office (hereinafter "USPTO") to withdrawal the Notice of Abandonment mailed January 12, 2005, and revive the above-captioned application as the undersigned never received the Office Action. M.P.E.P. 711.03(c) I. The undersigned hereby certifies that the Office Communication mailed April 29, 2004 (hereinafter "Office Communication") was never received by the undersigned, and a search of the file jacket and docket records indicates that the Office Communication was not received (see Exhibit A).

The Office Communication, as indicated in the PAIRS image file wrapper for this patent application, incorrectly shows a mailing address to Fish & Richardson, PC, at 12390 El Camino Real, San Diego, CA 92130-2081, despite the customer number indication of 38108 in PAIRS, which is the customer number of the undersigned. The address of the law firm of Fish & Richardson (hereinafter "Fish") has NEVER been the official communication address for this application, nor has an attorney at Fish ever been the official representative in this application.

BEST AVAILABLE COPY

A "Revocation of Prior Power of Attorney and Appointment of New Attorneys of Record" (hereinafter "revocation") was submitted on December 12, 2003 and clearly indicates the new representative as being the undersigned at an address of 1120 Connecticut Ave., Ste. 1010, Washington DC 20036 (see attached Exhibit B). The image file wrapper shows that the revocation was received and entered into the file at the USPTO. Furthermore, the revocation was received by the USPTO a full 4 months prior to the Office Communication being sent from the USPTO. Clearly, this error was through no fault of the undersigned, and was entirely a mistake by the USPTO. For this reason, the undersigned respectfully requests that the error be recognized and the abandonment be withdrawn at no cost to applicants. Furthermore, the undersigned respectfully requests re-issuance of the office communication and a re-starting of the statutory period for response.

For at least the foregoing reasons, Applicant respectfully requests that the holding of abandonment in this application be withdrawn, the Office Communication remailed to the correct correspondence address for the application, and the statutory period for response restarted.

Since the abandonment of this application was caused entirely by USPTO error, it is believed that no petition fee is necessary. However, if the USPTO disagrees, then the petition fee is authorized to be charged to our deposit account 50-3077. Furthermore, any other fees required to maintain pendency of this application are authorized to be charged to our deposit account.

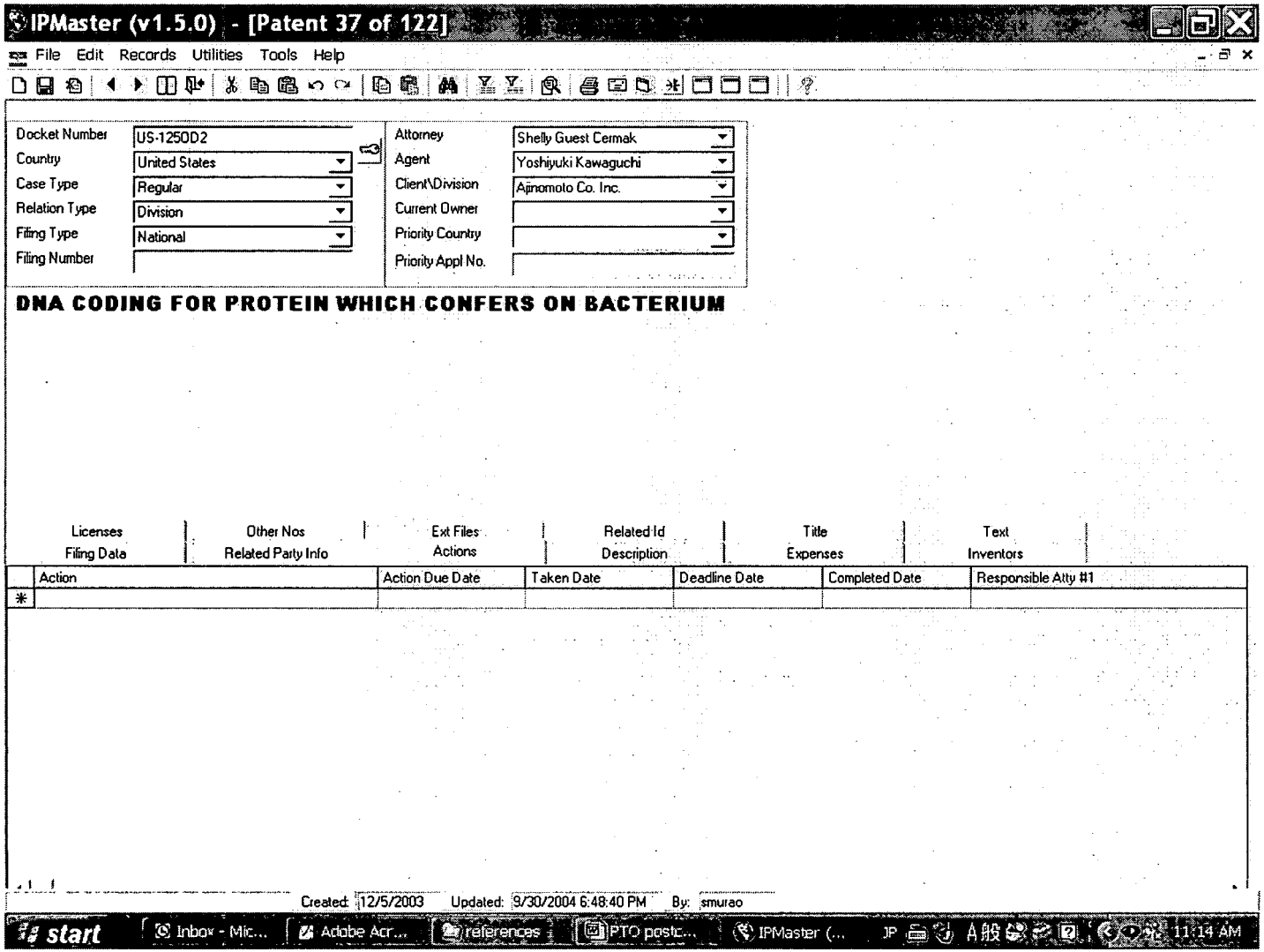
Respectfully submitted,

By: _____

Shelly Guest Cermak
Registration No. 39,571

USPTO Customer No: 38108
AJINOMOTO CORPORATE SERVICES LLC
1120 Connecticut Ave., Ste. 1010
Washington DC 20036
Date: January 14, 2005

Exhibit A



OIPE JC9
JAN 14 2005
PATENT & TRADEMARK

Exhibit B

Auto-Reply Facsimile Transmission

TO: Fax Sender at 202 457 0107

Fax Information
Date Received: 12/12/2003 1:40:12 PM [Eastern Standard Time]
Total Pages: 7 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received Cover Page =======>

DEC-12-2003 13:43 AJINOMOTO USA WS OFCE 202 457 0107 P.01/07

TELEFACSIMILE TRANSMISSION
to
THE UNITED STATES PATENT AND TRADEMARK OFFICE

TO:	Examiner Rao	FROM:	SHELLY GUEST CERMAK
FAX:	703.872.9306	REF. NO:	US-125OD2
VOICE:	703.306.5681	PAGES	7 (incl. this sheet)
App. No.:	09/927,395	DATE:	December 12, 2003

The undersigned hereby certifies that the following document(s) is (are) being transmitted by telefacsimile to the United States Patent and Trademark Office at the above "FAX" number, on the above DATE:

1) Revocation of Prior Power of Attorney and Appointment of New Attorneys of Record (2 pages)
2) Certificate Under 37 C.F.R. §3.73(b) (2 pages)
3) Copy of assignment, filed on December 10, 1999 (2 pages)

Shelly Guest Cermak
Registration Number 39,571

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Shelly Guest Cermak
Registered U.S. Patent Attorney
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JAN 14 2005
PATENT & TRADEMARK OFFICE

TELEFACSIMILE TRANSMISSION
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THE UNITED STATES PATENT AND TRADEMARK OFFICE

TO:	Examiner Rao	FROM:	SHELLY GUEST CERMAK
FAX:	703.872.9306	REF. NO:	US-125OD2
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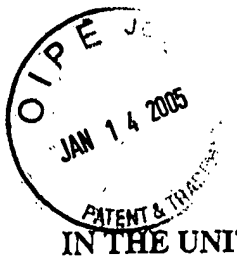
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Shelly Guest Cermak
Registered U.S. Patent Attorney
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Livshits et al.	
	Art Unit: 1652
Serial No. 09/927395	Examiner: Rao
Filed: August 13, 2001	Atty. Docket: US-125OD2

For: DNA CODING FOR PROTEIN WHICH CONFERS ON BACTERIUM ESCHERICHIA COLI RESISTANCE TO L-HOMOSERINE, AND METHOD FOR PRODUCING L-AMINO ACID

REVOCATION OF PRIOR POWER OF ATTORNEY AND APPOINTMENT OF NEW ATTORNEYS OF RECORD

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

The undersigned, having express authority to represent Ajinomoto Co., Inc., the assignee of the entire right, title, and interest in the above-identified application, by assignment filed at the U.S. Patent and Trademark Office on December 10, 1999 (copy enclosed), hereby revokes all powers of attorney heretofore given in the above-identified application, and appoints as his agents and attorneys:

Shelly Guest Cermak Reg. No. 39,571

of AJINOMOTO USA, Inc., telephone (202) 457 0284, 1120 Connecticut Ave., Ste. 1010, Washington DC, 20036, with full power of substitution, association, and revocation, to prosecute said application and to transact all business in the United States Patent and Trademark Office connected therewith.

Please direct all future correspondence concerning this application to said firm, having the following Customer Number, at the following address:

Ajinomoto USA, Inc.
1120 Connecticut Avenue
Ste. 1010
Washington DC 20036

000038108
PATENT TRADEMARK OFFICE

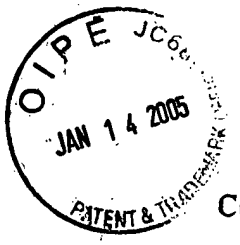
FOR: Ajinomoto Co., Inc.

SIGNATURE: H. Sugizaki

BY: Mr. Hiromitsu Sugizaki

TITLE: General Manager of Intellectual Property

DATE: Dec. 12, 2003



Att'y Dkt: US-125OD2
U.S. App. No.: 09/927,395

Certificate Under 37 C.F.R. § 3.73(b)

Applicant(s): Livshits et al.

Application No: 09/927,395 Filed: August 13, 2001

For: DNA CODING FOR PROTEIN WHICH CONFERS ON BACTERIUM ESCHERICHIA COLI RESISTANCE TO L-HOMOSERINE, AND METHOD FOR PRODUCING L-AMINO ACIDS

Ajinomoto Co., Inc., a Corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of either:

A.[X] An assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel 010455, Frame 0169, or for which a copy thereof is attached.

[or]

B.[] A chain of title from the inventor(s) of the patent application identified above to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
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The document was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

[] Additional documents in the chain of title are listed on a supplemental sheet.

[X] Copies of assignments or other documents in the chain of title are attached.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in the assignee identified above.

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

Att'y Dkt: US-125OD2 U.S. App. No.: 09/927,395

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Name: Mr. Hiromitsu Sugizaki

Title: General Manager of Intellectual Property

Signature: H. Sugizaki

Date: Dec 12, 2003

OIPE JC68 JAN 14 2005 PATENT & TRADEMARK OFFICE

09/396,357 US

Assignment Of Application

WHEREAS, I (WE)

INSERT NAMES AND RESIDENCE ADDRESSES OF THE INVENTORS:

Vitaly Arkadievich LIVSHITS, Natalya Pavlovna ZAKATAEVA, Vladimir Venyamiovich ALEOSHIN, Alla Valentinovna BELAREOVA, Irina Lvovna TOKHMAKOVA, all of whose Post Office address are the same of; c/o Institute of Genetics and Selection of Industrial Microorganisms (GNIIGenetika), 1, Dorozhny pr., 1, 113545, Moscow, Russia

_____, respectively,

INSERT TITLE OF INVENTION:

have invented certain new and useful improvements in: DNA CODING FOR PROTEIN WHICH CONFERS ON BACTERIUM ESCHERICHIA COLI RESISTANCE TO L-HOMOSERINE AND METHOD FOR PRODUCING L-AMINO ACIDS,

INSERT DATE INVENTORS SIGNED DECLARATION:

for which an application for Letters Patent was executed on August 24, 1999

(Application No. 09/396,357, filed September 15, 1999), and

INSERT NAME AND ADDRESS OF COMPANY OR OTHER ASSIGNEE:

WHEREAS, Ajinomoto Co., Inc.

(hereinafter referred to as "ASSIGNEE") having a place of business at: 15-1, Kyobashi 1-chome, Chuo-ku, Tokyo, Japan,

is desirous of acquiring the entire right, title and interest in and to said invention and in and to any Letters Patent that may be granted therefore in the United States and its territorial possessions and in any and all foreign countries;

NOW, THEREFORE, in consideration of the sum of FIVE DOLLARS ($5.00), the receipt whereof is hereby acknowledged, and for other good and valuable consideration, I (WE), by these presents do sell, assign and transfer unto said ASSIGNEE, the full and exclusive right to the said invention in the United States and its territorial possessions and in all foreign countries and the entire right, title and interest in and to any and all Letters Patent which may be granted therefor in the United States and its territorial possessions and in any and all foreign countries and in and to any and all divisions, reissues, continuations, substitutions and renewals thereof.

I (WE) hereby authorize and request the Patent Office Officials in the United States and its territorial possessions and any and all foreign countries to issue any and all of said Letters Patent, when granted, to said ASSIGNEE as the assignee of my (our) entire right, title and interest in and to the same, for the sole use and behoof of said ASSIGNEE, its (his) successors and assigns, to the full end of the term for which said Letters Patent may be granted, as fully and entirely as the same would have been held by me (us) had this Assignment and sale not been made.

Further, I (WE) agree that I (WE) will communicate to said ASSIGNEE or its (his) representatives any facts known to me (us) respecting said invention, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuation, substitute, renewal and reissue applications, execute all necessary assignment papers to cause any and all of said Letter Patent to be issued to said ASSIGNEE, make all rightful oaths, and, generally do everything possible to aid said ASSIGNEE, its (his) successors and assigns, to obtain and enforce proper protection for said invention in the United States and its territorial possessions and in any and all foreign countries.

The undersigned hereby grant(s) the firm of Oblon, Spivak, McClelland, Maier & Neustadt, P.C. of Fourth Floor, 1755 Jefferson Davis Highway, Arlington, Virginia 22202 the power to insert on this assignment any further identification, including the application number and filing date, which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document.

Date: August 24, 1999 (Signature of Inventor) Vitaly Arkadievich LIVSHITS

Date: August 24, 1999 (Signature of Inventor) Natalya Pavlovna ZAKATAEVA

Date: August 24, 1999 (Signature of Inventor) Vladimir Venyamiovich ALEOSHIN

Date: August 24, 1999 (Signature of Inventor) Alla Valentinovna BELAREOVA

Date: August 24, 1999 (Signature of Inventor) Irina Lvovna TOKHMAKOVA

Date: _____ (Signature of Inventor) _____

Date: _____ (Signature of Inventor) _____

Date: _____ (Signature of Inventor) _____

OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.
ATTORNEYS AT LAW
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VIRGINIA 22202

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